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"Should environmental approvals be speeded up?"

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There is little doubt the process needs quickening, but project-affected-persons have to be heard, even encouraged to present their point of view cogently.



Shubhendu Amitabh
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 The Aditya Birla Group

'Instead of protecting the environment, these clearances have become a handle with which businesses are harassed'

If your business ever happens to apply for an environmental clearance for any project, you would need lots of blessings from the highest and the lowest in the chain of command. And, if someone hasn't got a nagging NGO and a rudderless lawyer on his payroll to delay the project clearance, you need to fall on all fours to express gratitude.

Ironically, even if you have all or most of the enablers and no competitive roadblocks, you will still need luck on your side. And all this when it is mandatory for the government to settle a case for environmental clearance in not more than 210 days!

The problem and delays could be a bit more manageable if a single deterrent could be identified. The system of environmental clearances operate in an ecosystem of disarray. The regulations couldn't get more complex, the manpower is ill-equipped to handle laws, and the system thrives on red tape. It is an irony that despite the best intentions and clear guidelines, the project proponents are made to run from pillar to post at each stage of clearance leading to inordinate delays and heavy cost and time over-runs. In fact, environment clearances, instead of becoming a responsible way to protect the environment, have become a handle through which businesses can be twisted and turned.

Non-constitution of State Environment Impact Assessment Authorities (SEIAAs) in many of the states has increased the pressure on the Central Expert Appraisal Committees (EACs). Out of the total cases pending with the Ministry of Environment and Forests (MoEF), nearly 50 per cent are on account of non-availability of the appraisal committees at the state level. There often seems to be lack of coordination between the Centre and state governments as far as the time taken to respond to queries is concerned. There is also a total lack of transparency, and several amendments in the Environmental Protection Act are urgently needed. The present system can easily be circumvented to suit vested interests both at the Centre and the state levels.

The government's emphasis and intent indicates that, in a growing economy, attempts must be made to remove hurdles in the grant of environmental clearances. But to achieve this objective it is necessary to shake up the system. Among the steps needed:

- Industry-based Standardised Terms of Reference (ToRs) should be evolved.
- State Pollution Control Boards must complete the public hearing within the specified period, failing which other regulatory authority or public agency which is not subordinate to the regulatory authority should be authorised on priority to complete the process.
- Projects which do not require acquisition of any further land should be exempted from public consultation.
- There is an acute shortage of manpower in various departments of MoEF. The number of projects requiring environmental clearances is totally disproportionate to the number of officers available for handling the projects.
- Permit the project proponent to start construction work immediately after clearance of the Committee.
- The "deeming" provision in the EIA Notification should be used in cases where there is an inordinate delay without any proper and just reason.
- Increase the frequency of the meetings of the sectoral Expert Appraisal Committee in the MoEF and the State Expert Appraisal Committee.

The author represented Assocham in the Expert Group of the Ministry of Finance to examine the schemes of statutory clearances. The views expressed are personal and not those of The Aditya Birla Group

Any debate on the question of environmental clearances must begin by acknowledging the extremely important role that environmental processes play in the society's well-being. The new Minister of State for Environment and Forests, Jairam Ramesh, needs to be complimented in this regard: He stated recently that "there is no trade-off between environmental protection and economic growth". Going further, however, the idea of development as economic growth needs to be replaced by poverty alleviation and reaching a sustainable quality of life for all. And moving towards such goals requires an open, democratic governance process.



Sharachchandra Lale
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'Red-tape must go, but industry cannot decide what constitutes a high-quality environmental governance process'

In this context, the role of the Ministry of Environment and Forests (MoEF) is quite clear. Industrialisation and infrastructure

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development transform natural resources (for example, land from forests or agriculture to mines or dams) and can have a multi-dimensional environmental impact at various levels. These conversions and impacts often directly hit the rural poor and other marginalised groups that depend directly upon natural resources. Regulating these conversions is, therefore, a fundamental responsibility of the state. Individual actors do not act on their own in socially sensitive ways. And when the task of building development-infrastructure is increasingly being passed on to the private sector, the MoEF must play the role of an evaluator and a regulator, which is necessarily adversarial.

Expecting MoEF to facilitate environmental clearance is, therefore, confusing its role. Certainly, MoEF can be asked to be transparent and non-arbitrary, just as we ask that police be transparent and non-arbitrary in their use of power. But if industries need more help in complying with the environmental law, the government should set up environmental sensitisation and training cells within the ministries of industry, commerce and power, and not ask MoEF to do its job.

The real issue is how to improve the quality of the regulatory process. This process already stands discredited in the eyes of environmental and grassroot development activists and local communities. Existing Environmental Impact Assessment (EIA) norms already exempt too many activities at too many scales. They also promote bias in the EIA process by making the EIA experts beholden to the project proponents. In addition, the lack of transparency and access to information in the EIA process adds to the problem. The public hearing process is largely a farce. The National Environmental Appellate Authority is not functioning properly, as pointed out by the Delhi High Court. The proposed amendments will only make things worse. We do not allow farmers to decide whether groundwater in a taluka has been over-extracted or not; we ask state groundwater agencies to do that. So why should we allow industries to self-certify their environmental impact?

In fact, what is required is improving of the clearance process. A separate, scientifically-staffed and transparently-managed EIA wing will ensure high-quality, unbiased assessments. EIAs must include social impact assessments, which include detailed consultations with groups that are likely to get affected. Public hearings must not be limited to only affected parties, rather affected groups must be helped by MoEF to analyse and present their concerns in public hearings. Post-implementation monitoring systems need to be put in place. The Dahanu Thermal Power plant case, where the Supreme Court mandated an independent monitoring committee, which in turn opened the process to public participation, provides a model of how this may be done. While silly red tape should be avoided, we cannot allow industry to judge what constitutes red tape and what constitutes a high-quality environmental governance process.

The views expressed are personal

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